

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CYNTHIA ROBINSON,

Plaintiff,

v.

JOHN E. MAXWELL, Toppenish
County Municipal Court Judge,

Defendant.

NO. CV-08-3009-EFS

**ORDER DISMISSING ACTION
WITH PREJUDICE**

Before the Court, without oral argument, is Plaintiff's First Amended Complaint (Ct. Rec. 7), filed May 15, 2008. After review, the Court finds Plaintiff's First Amended Complaint fails to cure the deficiencies contained in the initial complaint.

Plaintiff alleges that Defendant John E. Maxwell, a Toppenish County Municipal Court Judge, wrongfully imprisoned her and that this wrongful imprisonment caused her pain, suffering, and emotional distress. (Ct. Rec. 7 at 2.) Plaintiff has been previously advised that judges are absolutely immune from liability for judicial acts performed within their jurisdiction. *Stump v. Sparkman*, 435 U.S. 349, 359 (1978). An act is "judicial" when it is a function normally performed by the judge and the parties dealt with the judge in his judicial capacity. *Id.* at 357; *Crooks v. Maynard*, 913 F.2d 699, 700 (9th Cir. 1990).

1 Absolute immunity exists even when there are allegations that the
2 judge acted erroneously, irregularly, or maliciously. *In re Castillo*,
3 297 F.3d 940, 947 (9th Cir. 2002). The purpose behind judicial immunity
4 is to ensure that an independent and impartial exercise of judgment vital
5 to the judiciary is not impaired by exposure to potential liability.
6 *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 435 (1993).

7 Here, Defendant Maxwell was performing a judicial act within his
8 jurisdiction. Plaintiff appeared before Defendant Maxwell on criminal
9 charges, and Defendant Maxwell issued a sentence. There are no facts
10 indicating Defendant Maxwell acted in the "clear absence of all
11 jurisdiction." *Crooks*, 913 F.2d at 700. Although granted the
12 opportunity to do so, Plaintiff has not alleged any facts that lower the
13 judicial immunity shield.

14 Accordingly, **IT IS HEREBY ORDERED:** Plaintiff's First Amended
15 Complaint (Ct. Rec. 7) is **DISMISSED with prejudice** for failing to state
16 a claim upon which relief may be granted. See 28 U.S.C.
17 1915(e) (2) (B) (ii), (iii).

18 **IT IS SO ORDERED.** The District Court Executive is directed to:

- 19 1) enter this Order;
20 2) enter judgment of dismissal **with prejudice**;
21 3) forward a copy to Plaintiff at her last known address; and
22 4) close the file

23 **DATED** this 19th day of May, 2008.

24
25 s/Edward F. Shea
EDWARD F. SHEA
26 United States District Judge

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